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10/667,999	09/22/2003	Michael B. Thomas	TD31/01	1918

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EXAMINER

EDWARDS, LAURA ESTELLE

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 02/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/667,999

Applicant(s)

THOMAS, MICHAEL B.

Examiner

Laura Edwards

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 8-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Election/Restrictions

Applicant's election with traverse of Group I, claims 1-7 in the reply filed on 1/4/05 is acknowledged. The traversal is on the ground(s) that all inventions should be examined together because the search areas for other inventions such as the coating method and the luminescent composition would overlap with apparatus search areas such that no undue burden would be placed on the Examiner to search all the inventions together. This is not found persuasive because the Examiner in searching the invention of Group I is already required to search for two separate inventions, the search areas for the apparatus does not overlap with the search areas for the method and composition such that examination of all the inventions together would place an undue burden on the Examiner already substantially limited in examination time.

The requirement is deemed reasonable, proper, and is therefore made FINAL.

Claim Rejections - 35 USC § 112

Claims 1, 6, and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 in the preamble, Applicant refers to nylon webbing in the preamble but refers to different terms for the same in the body of the claim. For example, on page 17, line 7, Applicant refers to "nylon straps" and on page 17, line 12, "webbings". It is unclear what term is meant to be consistently used, --nylon straps--, --nylon webbing--, or --webbings--. Clarification is necessary.

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In claim 6, lines 2-4, "the webbings" lack antecedent basis. It is suggested that --nylon straps-- be used since such a term is recited in claim 2. Please note in claim 7, Applicant also refers to "the webbings" in next to the last line of the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexeff (US 3,589,330) in view of Brown et al (USPAP 2004/0122131), Fourness et al (US 2,111,853), and Flowers et al (US 3,291,639).

Alexeff teaches a system for coating a plurality of strips used to manufacture tires comprising the combination of a container or tank for containing a coating liquid, a sealing plate or cover thereon, the cover including an inlet slot or port in which the strips are fed and an outlet

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slot or port through which the strips are removed, and a drying assembly for drying the coated strips. Alexeff is silent concerning the coating liquid being luminescent pigment containing paint, the tank including a mixing member or impeller, and the use of supply and take up rolls. However, it was known in the coating art, at the time the invention was made to apply well-mixed luminescent pigment containing paint to a substrate using conventional coating techniques including dip coating followed by drying as evidenced by Brown et al (see col. 2, [0013], col. 6, [0049], and col. 7, [0052-0057]). It would have been obvious to one of ordinary skill in the art seeking to paint the tire strips, to use the conventional closed dip coating system of Alexeff to apply the coating to the strips to provide for fluorescent tire strips. One of ordinary skill in the art seeking to apply well mixed paint to the strips would expect to use with the conventional dip coating apparatus as taught by the combination above, a conventional stirring implement or impeller rod as evidenced by Fourness et al (see Fig. 1, element 38) to provide for uniform application of coating liquid to the strips. As for supply and take up of the strips, it is well established in the coating art to supply strip material via a supply or feed roll and collect the coated strip material via a take-up reel as evidenced by Flowers et al (see col. 3, lines 1-5 and line 19). It would have been obvious to one of ordinary skill in the art to provide a supply reel and take-up reel as taught by Flowers in the coating system defined by the combination above to enable non-manual feeding and collection of the coated strips.

With respect to claim 3, Brown et al recognize that the luminescent coating material can be combined in a paint base as evidenced by [0052]. Even though Brown et al are silent concerning the quantity of paint base in which the luminescent composition can be combined, it is within the purview of one skilled in the art to provide an appropriate quantity of coating liquid

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including paint base in the tank to sufficiently coat a quantity of strips without having to regularly refill the tank.

With respect to claim 4, the lid or sealing plate (5) is fixed to the tank as evidenced by Alexeff in col. 2, lines 9-13 such that one of ordinary skill in the art would expect that the lid is removable.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alexeff (US 3,589,330), Brown et al (USPAP 2004/0122131), Fourness et al (US 2,111,853), and Flowers et al (US 3,291,639) as applied to claims 2-5 above, and further in view of Toulmin, Jr. (US 2,527,465).

The teachings of Alexeff, Brown et al, Fourness et al, and Flowers et al have been mentioned above but none teach or suggest a drying assembly in the form of upper and lower infrared lamps. However, it was known in the art, at the time the invention was made, to provide upper and lower infrared heating lamps to bake or completely dry a coated substrate as evidenced by Toulmin, Jr. (see col. 2, lines 37-40). It would have been obvious to one of ordinary skill in the art to provide drying means in the form of infrared lamps as taught by Toulmin, Jr. et al in the coating system defined by the combination above as an alternative form of heating to ensure complete baking and drying of all exposed coated areas on the strips.

Allowable Subject Matter

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Claim 1 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claim 7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 1 would be allowable because there is no teaching or suggestion in the prior art of a mixing and application system for applying a luminescent coating comprising the combination of a container in a cylindrical configuration with an open top and a closed bottom and with a quantity of coating liquid including one kilogram of a luminescent pigment and one U.S. gallon paint base; a circular lid removably positionable on the open top of the container, the lid having rod extending downwardly from the center the lid with an impeller at the lower end of the rod in the bottom of the container, the lid having a motor with a line to source of power and a switch for activating the motor to rotate rod and the impeller to keep the pigment in suspension in the paint base, the lid having a linear inlet slot and a linear outlet slot, the inlet and outlet slots being parallel with each other on opposite sides of the rod; a feeding assembly including a supply roll located above the lid and to the side of the container adjacent the inlet slot, the feeding assembly also including a take up roll located below the lid and to the side of the container adjacent the outlet slot, the feeding assembly also including idler rolls parallel with each other and the supply and take up rolls, one of the idler rolls being located beneath the supply roll laterally off set from the container with the other idler rolls located within the container laterally spaced from each

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other above the impellers, the take up roll adapted to be coupled to a source of power to move nylon straps from the supply roll, across the take up rolls and through the container and liquid therein and to the take up roll, and a drying assembly for nylon straps moving between the outlet slot and the take up roll, the drying assembly including infra red lamps above the nylon straps and infra red lamps beneath the nylon straps for drying the pigment and paint base on to the nylon straps prior to being received on the take up roll, the drying assembly including a V-shaped bend with a rubber surface on the side of the outlet slot proximate the take up roll and a V-shaped point on the side of the outlet slot remote from the take up roll, the V-shaped bend and the V-shaped point constituting a squeegee to remove excess liquid from the nylon straps prior to movement of the nylon straps between the lamps.

Claim 7 would be allowable because there is no teaching or suggestion in the prior art of a mixing and application system comprising the combination of a container with a quantity of coating liquid including luminescent pigment and paint base, an impeller in the bottom of the container to keep the pigment in suspension in the paint base, the container having a linear inlet slot and a linear outlet slot, a feeding assembly including a supply roll and take up roll and idler rolls to move nylon straps from the supply roll, across the take up rolls and through the container and liquid therein and to the take up roll, and a drying assembly for the nylon straps moving between the outlet slot and take up roll where in the drying assembly includes infra red lamps above the nylon straps and beneath the nylon straps for drying pigment and paint base on to the nylon straps prior to the being received on the take up roll, the drying assembly further including a V-shaped bend with a rubber surface on the side of the outlet slot proximate the take up roll and a V-shaped point on the side of the outlet slot remote from the take up roll, the V-shaped

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bend and the V-shaped point constituting a squeegee to remove excess liquid from the nylon straps prior to movement of the webbings between the lamps.

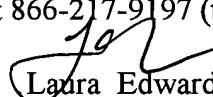
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patent discloses the state of the art with respect to the manufacture of a tire having a luminescent or fluorescent paint provided thereon: Kubota (US 3,607,498). The following patent discloses the state of the art with respect to the manufacture of luminescent or fluorescent pigment: Bauer et al (US 6,630,018).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura Edwards whose telephone number is (571) 272-1227. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Laura Edwards
Primary Examiner
Art Unit 1734

Le
February 16, 2005